

REMARKS

Claims 6, 7 and 9-18 are pending. Claims 10 - 13 have been amended. The amendments to claim 10 correct typographical errors in a drawing reference. Entry of the amendments and reconsideration of the application are requested.

The rejection of claims 6, 7, 9, 10, 14, 17 under 35 USC § 103(a) as unpatentable over Kaltenbach (U.S. 3,432,104) in view of Williams (U.S. 5,061,303) is traversed. There are substantial differences between the rejected claims and the references:

1. Claim 10 requires a container with a collapsible side wall and a base that can stand unsupported in an upright position. Neither reference discloses such a container for liquid. Office Action (OA) page 2 says that Kaltenbach discloses a container 30 in Fig. 2 having collapsible side wall 20 and a base on which it can stand unsupported in an upright position. This is a misinterpretation of Kaltenbach. In Kaltenbach, item 30 is a cup structure, and item 20 is a liner for the cup structure. The container of rejected claim 10 itself has a collapsible side wall and yet is able to stand unsupported in an upright position. The collapsible liner of Kaltenbach is a bag (see Fig. 2) with pleated sides (column 2, lines 62-63) not capable of standing upright while unsupported. It is only upright when supported by cup structure 30.
2. Claim 10 requires that the filter is sufficiently rigid to maintain an elongate tubular shape and sufficiently flexible to allow it to collapse as the container side wall collapses; whereas, neither reference discloses this feature. OA page 3 admits that Kaltenbach fails to disclose this feature but says that Williams discloses it. That is a misinterpretation of Williams. Williams' filter unit distorts temporarily when a squeezing force is exerted on the upper portion of the unit in order to remove or install the unit in a dust collector (column 5, lines 56-62, column 6, lines 11 - 37 and Fig. 4). His whole unit does not distort or collapse, just the upper part needed to fit the unit into a dust collector, and it is only distorted during installation or removal. The whole body of the filter of amended claim 10 (e.g., item 10A Fig. 4) is sufficiently flexible to collapse as the container collapses. Williams' filter unit is formed with a plurality of longitudinal supports (metal rods 48 combined with retainer ring 50) to maintain the filter bag in a tubular configuration (Williams claim 1 and column 4, line 65 - column 6, line 5), and it would not collapse if placed in a collapsible container because of the support structure.

3. Rejected claim 6 has a cage surrounding the filter tubular body which cage is sufficiently flexible to allow the filter to collapse if the container collapses which is not found in either reference. OA page 3 says this feature is disclosed in Williams, but that is not the case. Williams discloses cage 40, but it is only capable of collapsing at the top by virtue of garter spring 54 when Williams' filter unit is installed or removed. Retainer ring 50 toward to bottom of Williams' filter unit is not said to be flexible but is said to be welded to each rod 48 to obtain desired rigidity (Williams column 5, lines 16 – 26). Therefore, Williams' filter unit cage is not flexible enough to allow the whole filter to collapse if a container containing the filter collapses. In addition, rejected claim 6 requires that the cage surrounds the filter tubular body; whereas, the cage of Williams is inside filter bag 38.

4. Rejected claim 18 requires a filler opening in the lid of the container separate from the opening to be connected to a spraying apparatus. OA page 4, states that Kaltenbach has the features of claim 18, but that is not the case. The OA refers to container 19 and circular lid 28; but lid 28 is not on container 19 of Kaltenbach. It is on cup 30. Kaltenbach's lid 28 has only one opening in tail-piece 27, and it is the opening to be connected to spray gun 10 through swivel nut 14. The OA refers to the separate opening to be connected to the spraying apparatus as the open end of container 30, but that is not connected to the spray gun in Kaltenbach, since he only shows swivel nut 14 connected to the spray gun, not the open end of the container. Rejected claim 18 requires a filler opening to be both in the lid and separate from the opening to be connected to the spraying apparatus, which is not found in Kaltenbach.

Office action page 2, first bullet point characterizes the opening of Kaltenbach in which filter screen 32 is located as a filler opening. This characterization is specifically traversed. Kaltenbach does not call that opening a filler opening, and it would be illogical to use that opening for filling cup structure 30. Cup structure 30 would normally be filled before cover 28 is screwed on to the cup, and Kaltenbach describes filter screen 32 as filtering liquid as it is siphoned from within liner 20 (column 3, lines 14-16). The passage in tailpiece 27 into which filter screen 32 fits is shown as the conduit through which liquid exits the cup 30 and liner 20 toward spray gun 10. Therefore, the characterization of the opening in which Kaltenbach's filter screen fits as a filler opening should be withdrawn.

OA page 2, second bullet point states that Kaltenbach's filter 32 has a support collar. This assertion is specifically traversed, has no support in the reference, and the examiner is requested to withdraw it.

The modifications necessary to change the references sufficiently to overcome the differences stated above regarding claims 6, 7, 9, 10, 14, 17 and 18 and arrive at the rejected claims are too great to be obvious to one of ordinary skill. Such modifications would required hindsight.

Claims 15 and 16 have been rejected as obvious under 35 USC § 103(a) over Kaltenbach in view of Williams and further in view of Brown U.S. Patent 2,175,714. This rejection is traversed.

OA page 5 admits that Kaltenbach and Williams lack the limitations of claims 15 and 16, but the third paragraph on page 5 states that Brown discloses filter 13 oriented at an angle not parallel to a side wall of receptacle 1. To the contrary, Brown's filter 13 is a bag inserted into receptacle 1. This filter bag has no orientation because a bag has no rigidity. Brown uses U-shaped member 17 to pass his bag 13 into his receptacle (page 1, lines 23-26 and Fig. 1). The filter of the present claims is sufficiently rigid to maintain an elongate, tubular shape, and in claims 15 and 16 it is oriented at an angle to the side wall of the container.

To support the use of Brown in combination with Kaltenbach and Williams, the OA cites *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). *Japikse* does not support the rejection. *Japikse* held that shifting the position of a particular element is unpatentable as long as the operation of the device is not modified. However, combination of Kaltenbach and Brown suggested by the Examiner would modify the operation of Kaltenbach. The only filter disclosed in Kaltenbach is screen 32 which is in an opening in lid 28 oriented directly on the axis of cup 30. If (as the OA says) it were obvious to combine the concept of Brown's off-axis intake port 4 with Kaltenbach, one skilled in the art would have modified Kaltenbach's cup 30 and lid 28 in a way that would make Kaltenbach's apparatus more difficult to operate. For example, with an off-axis filter and opening, connecting the spray gun of Kaltenbach would be less convenient than the arrangement actually shown in Kaltenbach. Thus, the operation of Kaltenbach would be changed, and *Japikse* does not apply.

The rationale applied to the rejection of claim 10 above applies to the rejection of claims 15 and 16, and additional modifications would be required to arrive at claims 15 and 16 making them further removed from the art. An even greater degree of hindsight would be needed to modify the three cited references and arrive at claims 15 and 16.

Claims 11-13 have been rejected under 35 U.S.C. 103(a) as obvious over Gershenson U.S. Patent 5,755,962. This rejection has been avoided by the claim amendments. There are substantial differences between Gershenson and claims 11-13:

- a. OA page 7, last paragraph calls the former limitation of claim 11 “connectable in use to a spray gun” a recitation of the intended use of the claimed invention giving it little weight. Amended claim 11 recites the combination of a spray gun and a liquid supply assembly which is not disclosed in Gershenson.
- b. There is no container disclosed in Gershenson that would function as a container for a liquid supply assembly for a spray gun. OA page 5 last bullet point and page 6 first bullet point call Gershenson item 20 a container and OA page 7, last paragraph states that filter bag 20 is a container since it contains layers 8, 10 and 3 as shown in Fig. 6. This is a mischaracterization of Gershenson. The container of rejected claim 11 is a container for containing liquid (as stated in the claim itself), and Gershenson’s filter bag 20 would not contain liquid. Gershenson item 20 is a filter bag (column 5, lines 22-23) intended to filter liquid and incapable of containing it (see Gershenson’s Example in which he pumps liquid through it at 25 gals/minute).
- c. Claim 11 also requires the container to have a lid arranged to close the open end of the container and forming an end wall in which the filler opening is formed. This feature is absent from Gershenson. OA page 6, first bullet point, states that Gershenson item 26 is a lid arranged to close the open end of container 20 and forming the end wall in which the filler opening is formed, and OA page 8, first sentence, reiterates this assertion, saying, “Element 26 has been considered as a lid...” This assertion of the OA is specifically traversed. Gershenson column 5, line 26 calls item 26 a lip rather than a lid, and his Fig. 6 shows it as a lip around the periphery of filter membrane 10 with mostly open space at the top. The lid of claim 11 is required to “close the open end of the container”; whereas, Gershenson lip 26 can not close anything. Gershenson states at column 5, lines 24–27 that his lip 26 is sealed around a central liquid entrance port as described in U.S. Patent 5,358,638. The copy of the ‘638 patent enclosed shows that

Gershenson's filtration bag fits inside an apparatus having a lid, but item 26 in Gershenson '962 (analogous to part 70 in the '638 patent) is not a lid. In U.S. Patent 5,358,638, part 70 forms a sealing area 82 with cover plate 24 (see '638 patent column 3, lines 9-15 and Figs. 1 and 2).

Cover plate 24 is a lid, but not lip portion 70.

d. Gershenson also lacks the feature, in claim 12, of a container having a flexible sidewall (foldable to move the base towards the lid as liquid is withdrawn from the reservoir) and a comparatively rigid base. OA page 6, last 3 lines says Gershenson discloses a container having a flexible sidewall and a comparatively rigid base and the sidewall can be foldable to move the base towards the lid as liquid is withdrawn from the container. OA page 7 last paragraph states that Gershenson item 20 is a container because it contains layers 8, 10, 3. These statements in the OA are specifically traversed. The OA ignores the requirement in the rejected claims that the container is a "container for containing liquid" (see e.g., claim 11). Gershenson' item 20 is not a container for containing liquid, has no comparatively rigid base, and a base of item 20 (even if it had a base) would not move toward a lid (if Gershenson had a lid) as liquid is withdrawn from a reservoir because (among other things) Gershenson item 20 is a porous bag for filtering liquid, not containing it.

Since all claim limitations must be taught or suggested by the reference in order to establish obviousness (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) and *In re Wilson*, 404 F. 2d 1382, 165 USPQ 494 (CCPA 1970)), in view of the differences described above, claims 11 – 13 are not obvious in view of Gershenson.

In view of the above discussion, it is respectfully submitted that claims 6, 7 and 9-18, as amended, are in condition for allowance. Withdrawal of the rejections under 35 U.S.C. 103 is requested and a notification of allowability is respectfully solicited.

Respectfully submitted,

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